

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Colleen Badger
33 Palomino Lane
Bedford, NH 03110,

Plaintiff

v.

The Hartford Financial Services Group, Inc.
Hartford Plaza, 690 Asylum Avenue
Hartford, CT 06115,

Defendant

Civil Action: 1:05-cv-431-SM

COMPLAINT

I. Introduction:

1. This is an action under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1132(a)(1)(B) “ERISA” to recover benefits due under a long-term disability insurance plan (the “Plan”) originally issued by Aetna, later transferred to The Hartford Group (“Hartford”) for the benefit of employees of Framatome Connectors, USA.

II. Jurisdiction:

2. This Court has jurisdiction over this claim pursuant to 29 U.S.C. §1132(e)(1).
3. Venue is appropriate under 29 U.S.C. §1132(e)(2) in that the plaintiff currently resides in New Hampshire and was a resident here at the time the defendant denied her claim for long-term disability benefits.

III. Parties:

4. The plaintiff, Colleen Badger, resides at 33 Palomino Lane, Bedford, New Hampshire, 03110.

5. The defendant, Hartford, is an insurance company with a principal place of business at Hartford Plaza, 690 Asylum Avenue, Hartford, CT 06115.

IV. **Factual Allegations:**

6. On or around October 9 of 1993, the plaintiff, Colleen Badger, became totally disabled by various medical conditions, including systemic lupus erythematosus, fibromyalgia, memory impairment and fatigue.
7. The plaintiff was insured for long-term disability benefits by Aetna, through her employer, Framatome Connectors, USA.
8. The plaintiff began receiving long-term disability benefits from Aetna, due to her total disability, on or around October of 1993.
9. On January 1, 2000, administration of the long term disability plan was transferred from Aetna to defendant.
10. On December 23, 2002, defendant hired CNA to administer the long term disability plan.
11. On January 1, 2003, CNA took over administration of the plan.
12. On or about January 2004, CNA was acquired by defendant Hartford.
13. By letter dated March 8, 2004, CNA/Hartford denied the plaintiff's claim for long term disability benefits based on reports submitted by an independent medical examiner and a neuropsychological evaluation. The termination was effective March 1, 2004.
14. CNA explained in its letter of March 8, 2004 that because long-term disability benefits were being denied:

If you disagree with our decision, you have the right to appeal. This appeal is afforded in accordance with the Employee Retirement Income Security Act of 1974 (ERISA), as amended, to the extent it is applicable to your claim. If you have additional medical information not mentioned above or wish us to reconsider our decision, you should submit your formal request for reconsideration in writing to my attention within 180 days of the date of this letter. Your appeal should be addressed to: Attn: Juan

Mendez, CNA Group Benefits, National Accounts, P.O.
Box 946710, Maitland FL 32794-6710.

15. The plaintiff complied with the requirements as set forth in the denial letter by filing an appeal by letter dated August 26, 2004 explaining the reasons why the claim was improperly denied and submitting medical records and reports and other information in support of her appeal.
16. On or about September 23, 2004, administration of the plan passed from CNA to Hartford.
17. By letter dated November 24, 2004, Hartford upheld the decision on appeal to deny benefits, stating:

We have completed our review of this claim on appeal, and it is our determination that Ms. Badger did not continue to meet the definition of total disability as defined in the Plan. Therefore, we are upholding the decision to terminate her LTD benefits effective March 1, 2004...based upon a review of the Plan provisions, the statements contained in your appeal, the above-mentioned documentation, as well as the evidence already contained in Ms. Badger's claim file....Ms. Badger may bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974 ("ERISA").

18. Defendant has been unable to produce a Plan that was actually in effect at the time Plaintiff became totally disabled.
19. To deny plaintiff benefits, defendant relies solely on a Plan that did not become effective until 01/01/2003, and a summary description provided in the employee handbook.

V. **Causes of Action:**

A. **Denial of Benefits:**

20. The plaintiff repeats, re-alleges, and incorporates herein all allegations and facts set forth above.
21. The plaintiff is an insured and claimant under the Plan.

- 22. The plaintiff filed a timely appeal from the defendant's denial of her claim for long-term disability benefits.
- 23. The plaintiff is now entitled to a *de novo* review by this Court of the denial of her disability claim in order to have the merits of her appeal determined.
- 24. The plaintiff is entitled to benefits under the Plan, retroactive to March 1, 2004.

B. Attorneys' Fees:

- 25. The plaintiff repeats, re-alleges, and incorporates herein all allegations and facts set forth above.
- 26. Pursuant to 29 U.S.C. §1132(g)(1), the plaintiff is entitled to an award of her attorneys' fees and costs incurred in connection with this claim.

VI. Prayer for Relief:

WHEREFORE, the plaintiff, Colleen Badger, respectfully prays for the following relief:

- A. An Order that she is entitled to long-term disability benefits under the Plan retroactive to March 1, 2004;
- B. An award of costs and attorneys' fees pursuant to 29 U.S.C. §1132(g)(1);
- C. An award of pre-judgment and post-judgment interest; and
- D. Such other and further relief that is just and equitable.

Respectfully submitted,

COLLEEN BADGER

By her attorneys,

GAWRYL & MacALLISTER

Dated: December 7, 2005

By: /s/ Jared O'Connor
Jared O'Connor, Esq. #15868
GAWRYL & MacALLISTER
41 East Pearl Street
Nashua, NH 03060
(603) 882-3252